

Clean-Up Notice



NARRABRI COAL OPERATIONS PTY LTD
ABN 15 129 850 139
Locked Bag 1002
NARRABRI NSW 2390

Attention: Mr Steve Bow

Notice Number 1578807
File Number SF15/42984 DOC19/363400
Date 30-Apr-2019

Clean-up Notice

Why is the EPA writing to you?

The Environment Protection Authority (EPA) reasonably suspects that a pollution incident has occurred or is occurring on land that forms part of Yarrie Lake Road, NARRABRI, NSW, 2390 (**Premises**). The EPA has issued you with this Clean-up Notice. Further information is set out in the notice below.

What are you required to do?

Please read this notice carefully and carry out the clean-up action specified in this notice by the date required. If you have any queries about this matter, please contact **SIMON LUND** on **02 6773 7000**.

BACKGROUND

- A. The EPA has responsibility for the administration and enforcement of the *Protection of the Environment Operations Act 1997* (Act).
- B. NARRABRI COAL OPERATIONS PTY LTD ('**Narrabri Coal**') is reasonably suspected by the EPA of causing or having caused a pollution incident at the Premises for the purposes of s 91(1)(b) of the Act.
- C. Between the dates of 4 April to 18 April 2019 inclusive, the EPA received reports from Narrabri Shire Council of small fires occurring within the general solid waste cell at the Premises.
- D. On 18 April 2019, Narrabri Shire Council advised the EPA that the source of the fires had been identified as Oxy 6000 rescuer units ('**the cannisters**') which were used as part of breathing apparatus by Narrabri Coal at the Narrabri underground coal mine. Narrabri Shire Council also

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advised that the cannisters were found in double black bags, mixed in with general solid waste loads delivered by Namoi WasteCorp Pty Ltd ('**Namoi Waste**') between the dates of 2 April 2019 and 18 April 2019.

- E. The EPA believes that between 112 to 140 individual cannisters may have been delivered to the landfill, mixed in with general solid waste, between the dates of 2 April 2019 and 18 April 2019 by Namoi Waste.
- F. On 18 April 2019, Narrabri Shire Council provided the EPA with the material safety data sheet ('**MSDS**') for the cannisters.
- G. Based on the information provided by Narrabri Shire Council, the EPA reasonably suspects the cannisters are considered hazardous waste. The cannisters contain potassium dioxide (superoxide) and sodium chlorate which combust when exposed to moisture. The MSDS states the material must not be allowed to drain to sewers or water supplies. The combustion of these chemicals release gases that may be hazardous to human health and the environment.
- H. The EPA reasonably suspects that Namoi Waste is engaged by Narrabri Coal to collect waste material from Narrabri underground coal mine.
- I. Narrabri underground coal mine is located at 10 Kurrajong Creek Road, Baan Baa NSW and is operated by Narrabri Coal.
- J. The EPA reasonably suspects the waste material collected from Narrabri underground coal mine by Namoi Waste is taken to Namoi Waste's depot for sorting and segregation of recyclable material prior to disposal at Narrabri Landfill.
- K. The EPA reasonably suspects that, between the dates of 2 April 2019 and 18 April 2019, Namoi Waste delivered waste material collected from Narrabri underground coal mine to the Premises for disposal. The EPA reasonably suspects the waste material included between 112 to 140 cannisters covered in double black bags.
- L. The EPA reasonably suspects Namoi Waste declared the waste material referred to in paragraph K to be 'general solid waste' to the Landfill Gate Operator at the entrance to Narrabri Landfill. The Landfill Gate Operator then directed Namoi Waste to dump the waste material in the general solid waste cell at the Premises.
- M. The EPA is the appropriate regulatory authority for Narrabri Landfill as it is regulated via Environment Protection Licence #12193. The EPA is also the appropriate regulatory authority for waste activities including disposal and storage of hazardous waste material as set out in Schedule 1 of the Act.
- N. The Premises is not licensed to accept hazardous waste.
- O. On or around 18 April 2019, Narrabri Shire Council isolated the affected section of the general solid waste cell at the Premises.
- P. Narrabri Shire Council has advised the EPA that the affected area is approximately 670m³. Narrabri Shire Council has also advised it will facilitate access to the site to enable remediation and/or cleanup actions required to remove the cannisters and remediate the impacted area of the cell.
- Q. Section 91 of the Act enables the EPA to issue a Clean-up Notice in respect of a pollution incident.
- R. The Dictionary to the Act defines:
 - a. "Pollution incident" as an incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a

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result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise.

- b. "Pollution" as including land, water and air pollution.
 - c. Land pollution or pollution of land means placing in or on, or otherwise introducing into or onto, the land (whether through an act or omission) any matter, whether solid, liquid or gaseous:
 - a. that causes or is likely to cause degradation of the land resulting in actual or potential harm to the health or safety of human beings, animals or other terrestrial life or ecosystems or actual or potential loss or property damage, that is not trivial, or
 - b. that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter, but does not include placing in or on, or otherwise introducing into or onto, land any substance excluded from this definition by the regulations.
 - d. Water pollution or pollution of waters means:
 - (a) placing in or on, or otherwise introducing into or onto, waters (whether through an act or omission) any matter, whether solid, liquid or gaseous, so that the physical, chemical or biological condition of the waters is changed, or
 - (b) placing in or on, or otherwise introducing into or onto, the waters (whether through an act or omission) any refuse, litter, debris or other matter, whether solid or liquid or gaseous, so that the change in the condition of the waters or the refuse, litter, debris or other matter, either alone or together with any other refuse, litter, debris or matter present in the waters makes, or is likely to make, the waters unclean, noxious, poisonous or impure, detrimental to the health, safety, welfare or property of persons, undrinkable for farm animals, poisonous or harmful to aquatic life, animals, birds or fish in or around the waters or unsuitable for use in irrigation, or obstructs or interferes with, or is likely to obstruct or interfere with persons in the exercise or enjoyment of any right in relation to the waters, or
 - (c) placing in or on, or otherwise introducing into or onto, the waters (whether through an act or omission) any matter, whether solid, liquid or gaseous, that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter, and, without affecting the generality of the foregoing, includes:
 - (d) placing any matter (whether solid, liquid or gaseous) in a position where:
 - (i) it falls, descends, is washed, is blown or percolates, or
 - (ii) it is likely to fall, descend, be washed, be blown or percolate,
- into any waters, onto the dry bed of any waters, or into any drain, channel or gutter used or designed to receive or pass rainwater, floodwater or any water that is not polluted, or
- (e) placing any such matter on the dry bed of any waters, or in any drain, channel or gutter used or designed to receive or pass rainwater, floodwater or any water that is not polluted,

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if the matter would, had it been placed in any waters, have polluted or have been likely to pollute those waters.

e. Air pollution as the emission into the air of any air impurity.

S. The EPA reasonably suspects that a pollution incident is occurring or is likely to occur at the Premises, namely:

- a. hazardous waste has been deposited within general solid waste at the Premises that the EPA believes has the potential to harm human health and the environment due to the release of combustion gases when exposed to moisture; and
- b. hazardous waste has been deposited within general solid waste at the Premises that may pollute waters.

H. The EPA is directing you to take clean-up action because the EPA reasonably suspects you of causing or having caused the pollution incident.

DIRECTION TO TAKE CLEAN-UP ACTION

1. The EPA directs NARRABRI COAL OPERATIONS PTY LTD to take the following clean-up action:
2. By 5pm on Thursday 9 May 2019, submit a report to the Manager, Regional Operations, Armidale that details remediation and/or cleanup actions to be carried out at the premises to remove the hazardous material deposited between 2 April 2019 and 18 April 2019, at the Premises.
3. The report referred to in paragraph 2 must provide, but is not limited to the following:
 - a. outline the method(s) to isolate and remove hazardous waste in a safe manner;
 - b. identify disposal options for the hazardous waste;
 - c. identify plant and equipment to be used;
 - d. describe actions to be taken to ensure staff and community safety during the clean-up works including personal protection to be used and any community notifications to be issued;
 - e. evidence of consultation with Narrabri Shire Council, Fire and Rescue - Hazardous Materials and NSW SafeWork regarding the proposed cleanup actions;
 - f. timeframes for implementation.

FEE TO BE PAID

- You are required by law to pay a fee of \$550 for the administrative costs of issuing this notice. An invoice for the fee has been attached to this notice.
- It is an offence not to pay this fee. However you can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

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Rebecca Scrivener

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Rebecca Scrivener
Head, Regional Operations Unit - Armidale
Environment Protection Authority (by Delegation)

WARNINGS AND INFORMATION ABOUT THIS CLEAN-UP NOTICE

- This notice is issued under section 91 of the Act.
- It is an offence against the Act not to comply with a clean-up notice unless you have a reasonable excuse.
- Details provided in this notice will be available on the Public Register in accordance with section 308 of the Act

Penalty for not complying with this notice

- The maximum penalty that a court may impose for a corporation is \$1,000,000 and a further \$120,000 for each day the offence continues. The maximum penalty that a court may impose for an individual is \$250,000 and a further \$60,000 for each day the offence continues.

When this notice begins to operate

- This notice operates from the day the notice is given, unless a later date is specified in the notice.

Continuing obligation

- Under section 319A of the Act, your obligation to comply with the requirements of this notice continues until the notice is complied with in full, even if the due date for compliance has passed.

Cost recovery from the person who caused the incident

- If you comply with this clean-up notice but you are not the person who caused the pollution incident to which the notice relates, you have a right to go to court to recover your costs of complying with the notice from the person who caused the incident.

Deadline for paying the fee

- The fee must be paid by **no later than 30 days after the date of this notice**, unless the EPA extends the time to pay the fee, or waives the fee.

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How to pay the fee

- Possible methods of payment are listed on the last page of the attached invoice/statement.
- Please include the payment slip from the attached invoice/statement with your payment.

How to apply for an extension of time to pay/waive the fee

- Any application for an extension of time to pay the fee or for the fee to be waived must be made in writing to the EPA. The application should set out clearly why you think your application should be granted.

Other costs

- The Act allows the EPA to recover from you reasonable costs and expenses it incurs in monitoring action taken under this notice, ensuring the notice is complied with and associated matters.
- If you are required to pay these other costs and expenses you will later be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".

Variation of this notice

- The requirements of this notice may only be varied or revoked by written notice issued by the EPA.